

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION**

In Re:	:	
NELSON MBONY AND IMMACULATE MBONY	:	CASE NO. 23-40795 CJP
	:	CHAPTER 7
DEBTORS	:	

**MOTION FOR RELIEF FROM AUTOMATIC STAY OR,
IN THE ALTERNATIVE, ADEQUATE PROTECTION**

Wells Fargo Bank, N.A. d/b/a Wells Fargo Auto ("Wells Fargo") as and for a motion, pursuant to 11 U.S.C. §362(d) and Rule 4001(a) F.R.B.P., seeking an Order granting relief from Automatic Stay in order to obtain possession and dispose of its collateral, namely one 2015 MERCEDES-BENZ GL CLASS, or, in the alternative, directing the debtor to immediately provide Wells Fargo with adequate protection of its security interest in the aforesaid vehicle, states the following as grounds therefore:

1. This Court has jurisdiction over this matter under 28 U.S.C. §§1334(b) and §157(a) and §362(d) of Title 11, United States Code (hereinafter referred to as the "Code"). Upon information and belief, this matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(G).
2. On September 27, 2023, Nelson Mbono and Immaculate Mbono hereinafter referred to as the 'Debtors' filed a voluntary petition under Chapter 7 of Title 11 of the Code with this Court.
3. On June 13, 2019, the Debtor Nelson Mbono entered into a Retail Installment Contract (hereinafter referred to as the "Contract") with High-Line Motor Group, Inc. (hereinafter referred to as the "Seller"), whereby the Debtor agreed to pay a total of payments in the amount of \$58,417.50 in connection with the purchase of a 2015 MERCEDES-BENZ GL CLASS Vehicle Identification Number: 4JGDF7DEXFA531042 (hereinafter referred to as the "Motor Vehicle").
4. Thereafter, pursuant to its terms, the Contract was duly assigned by the Seller to

Wells Fargo and the latter is now the holder and owner of same.

5. Pursuant to the terms and provision of the Contract, Wells Fargo was granted and presently retains a purchase money security interest in, inter alia, the Motor Vehicle and any accessories, equipment and replacement parts installed in said Motor Vehicle. No other collateral exists securing this obligation.

6. Wells Fargo duly perfected such security interest by noting its lien on the Certificate of Title. Copies of the Contract and Certificate of Title are collectively annexed hereto as Exhibit "A" and made a part hereof.

7. At the present time the Debtor is in default under the terms and provisions of the contract as follows:

- a. The amount owing to Wells Fargo as of April 16, 2024 is \$19,316.91.
- b. Pre-petition arrears: \$783.90.
- c. Post-petition arrears: The Debtor has failed to make monthly payments and remains due and owing for January 13, 2024 through and including March 13, 2024 and, as a result, is in arrears \$2,336.70 as of April 16, 2024. The amount of monthly payment is \$778.90.

8. The J.D. Power/NADA valuation, dated April 16, 2024, provides that the Clean Retail value of the Vehicle is approximately \$16,275.00. A copy of the J.D. Power/NADA valuation is attached hereto as Exhibit B and made a part hereof.

9. Pursuant to 11 U.S.C. §362(a), upon commencement of the bankruptcy case, Wells Fargo was and is stayed from taking any action against any debtor to obtain possession and control of the subject motor vehicle.

10. Upon information and belief, the Debtor continues to enjoy the use and possession of the motor vehicle subjecting same to normal occupational wear and tear thereby causing the motor vehicle to depreciate in value. It is respectfully submitted that the continued use of the motor vehicle shall eventually render it useless thereby causing Wells Fargo irreparable damage to its interests in same.

11. It is respectfully asserted that Wells Fargo's interest in the motor vehicle will not be adequately protected if the automatic stay is allowed to remain in effect.

12. Accordingly, sufficient cause exists, pursuant to 11 U.S.C. §362(d)(1) and/or (d)(2) to grant Wells Fargo immediate relief from automatic stay herein.

13. Alternately, in the event relief from automatic stay is not granted, Wells Fargo respectfully requests that the Court compel the debtor to immediately provide Wells Fargo adequate protection of its security interests in the motor vehicle by (a) curing any default of payment obligations presently existing pursuant to the terms and provisions of the contract; (b) continuing to make payment in timely fashion thereunder; (c) maintaining adequate and continuous insurance coverage on the motor vehicle, and (d) providing such other adequate protection as the Court may deem just and proper under 11 U.S.C. §361.

14. In the event this request for adequate protection is granted, then Wells Fargo respectfully request that the order provide that it be entitled to the immediate possession of the Motor Vehicle without further Court proceedings in the event of default by the Debtor under any provisions for adequate protection which may be awarded herein after proper notice thereof.

15. No prior application for relief requested herein has been made.

WHEREFORE, Wells Fargo respectfully requests that the Court issue an Order, pursuant to 11 U.S.C. §362(d)(1) granting relief from automatic stay in order to obtain possession and dispose of its collateral or, in the alternative, directing the debtor to immediately provide for the adequate protection of the security interests of Wells Fargo in the Motor Vehicle hereinabove requested; and such other relief as the Court deems just and proper.

Dated at Bloomfield, Connecticut on April 24, 2024.

MOVANT
WELLS FARGO BANK, N.A. D/B/A WELLS
FARGO AUTO

By /s/ Walter Onacewicz
Walter Onacewicz, Esq.
Counsel for Wells Fargo Bank, N.A. d/b/a
Wells Fargo Auto
Law Offices of Nair & Levin, P.C.
707 Bloomfield Avenue
Bloomfield, CT 06002
BBO No. 662159
Telephone No. (860) 242-7585
wonacewicz@nairlevin.com

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION**

In Re:	:	
NELSON MBONY AND IMMACULATE MBONY	:	CASE NO. 23-40795 CJP
	:	CHAPTER 7
DEBTORS	:	

**ORDER GRANTING RELIEF FROM AUTOMATIC STAY OR,
IN THE ALTERNATIVE, ADEQUATE PROTECTION**

After notice and an opportunity for a hearing on Wells Fargo Bank, N.A. d/b/a Wells Fargo Auto's (hereafter the "Movant") Motion for Relief from Stay or, in the alternative, adequate protection Doc. I.D. No.

IT IS HEREBY ORDERED that the Automatic Stay of Section 362(a) of the Bankruptcy Code is modified so that the Movant may exercise its rights if any, under its security agreement with the above Debtor(s) with regard to a 2015 MERCEDES-BENZ GL CLASS Vehicle Identification Number: 4JGDF7DEXFA531042, in accordance with State and Federal Law.

This Order is binding and effective despite any conversion of this bankruptcy case under any other chapter of the Bankruptcy Code.

Dated at Worcester, Massachusetts this _____ day of _____, 2024.

Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION**

In Re:	:	
NELSON MBONY AND IMMACULATE	:	CASE NO. 23-40795 CJP
MBONY	:	
	:	CHAPTER 7
DEBTORS	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 24, 2024 in accordance with Rules 7004, 7005, and 9014 F.R.Bankr.P., I have served the following upon all parties entitled to notice (see attached Schedule "A") by first class mail postage prepaid or electronically:

- (1) a copy of the Motion for Relief from Automatic Stay,
- (2) a copy of the proposed order.

Dated: April 24, 2024

THE MOVANT
WELLS FARGO BANK, N.A. D/B/A WELLS
FARGO AUTO

By /s/ Walter Onacewicz
Walter Onacewicz, Esq.
Counsel for Wells Fargo Bank, N.A. d/b/a
Wells Fargo Auto
Law Offices of Nair & Levin, P.C.
707 Bloomfield Avenue
Bloomfield, CT 06002
BBO No. 662159
Telephone No. (860) 242-7585
wonacewicz@nairlevin.com

SCHEDULE A

Immaculate Mbony

60 King Street
Dracut, MA 01826
(Debtor)

Nelson Mbony

60 King Street
Dracut, MA 01826
(Debtor)

Glenn F. Russell, Jr.

Law Office of Glenn F. Russell, Jr.
38 Rock Street
Suite #12
Fall River, MA 02720
508-324-4545
508-938-0244 (fax)
russ45esq@gmail.com

Richard King

Office of US. Trustee
446 Main Street
14th Floor
Worcester, MA 01608
USTPRegion01.WO.ECF@USDOJ.GOV
(Assistant U.S. Trustee)

Richard T. Mulligan

Brock & Scott, PLLC
3825 Forrestgate Dr.
Winston Salem, NC 27103
844-856-6646
704-369-0760 (fax)

Steven Weiss

Shatz, Schwartz and Fentin, P.C.
1441 Main Street Suite 1100
Springfield, MA 01103
(413) 737-1131

sweiss@ssfpc.com

Richard.mulligan@brockandscott.com

Richard C. Demerle

Demerle Hoeger LLP

10 City Square, 4th Floor

Boston, MA 02129

617-337-4444

617-337-4496 (fax)

RDemerle@DHNewEngland.com

Tatyana P. Tabachnik

Demerle Hoeger LLP

10 City Square

Boston, MA 02129

617-337-4444

ttabachnik@dhnewengland.com